

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SCOTT BOEHM and DAVID STLUKA,

Plaintiffs,

v.

SCHEELS ALL SPORTS, INC., *et al.*,

Defendants.

ORDER

15-cv-379-jdp

Plaintiffs moved to compel defendant David Thomason to produce, among other things, all of his communications with his co-defendants and nonparties Dan and Ciara Zimprich. Dkt. 519. The court granted plaintiffs' motion but, because Thomason's counsel withdrew and Thomason was newly representing himself pro se, ordered Thomason to first submit the communications to the court for in camera review to determine whether they are privileged. Dkt. 639. Thomason did so. Dkt. 664; Dkt. 665; Dkt. 672.

Having reviewed Thomason's submissions, the court will order Thomason to promptly produce to plaintiffs all communications in Dkt. 672 (emails between Thomason and his co-defendants and the Zimpriches) because they are not privileged. Thomason need not produce the communications in Dkt. 664 and Dkt. 665 (emails between Thomason's former counsel and counsel for his co-defendants and the Zimpriches) because they contain attorney work-product and are appropriately withheld from disclosure. Thomason, his co-defendants, and the Zimpriches have a common interest in the litigation, so disclosure of these communications among these parties has not waived the work-product privilege. *Beneficial Franchise Co., Inc. v. Bank One, N.A.*, 205 F.R.D. 212, 215-16 (N.D. Ill. 2001). The court notes that Thomason did not submit the attachments to these emails for review, but the

context of the emails and the titles of the attachments make clear that plaintiffs already have access to the attachments because they have been filed with the court in this case or were originally provided to defendants by plaintiffs. So Thomason need not produce the attachments to plaintiffs, either.

ORDER

IT IS ORDERED that defendant David Thomason produce the emails in Dkt. 672 to plaintiffs by November 28, 2016.

Entered November 23, 2016.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge